IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 7036 of 2004

Between:

Cargo Handling Private Workers Pool 1st Floor, Old T.M. Office Building Near Port main Gate, Visakhapatnam-35 President, Sri K. Gangi Reddy,Rep. by its Sri K.S.No. Ravi (its incharge) S/o. K.V.V.S.N. Raju

..... PETITIONER

AND

1. The Assistant Provident Fund Commissioner O/o. Employees

Provident Fund Organisation VUDA Layout, NAD Post,

Visakhapatnam-9

2 The Visakhapatnam Dock Labour Board and Dock Workers Union

(HMS) Dharmashakthi Bhavan, Near Reading Room

Visakhapatnam-530 001

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to order the notice and declare the goooodwill paid to the members of the 2nd respondent Union consequent on settlement arrived in the course of conciliation proceedings held in the presence of Asst. Labour Commissioner (Central), Visakhapatnam is not a wage and as such no contribution is payable under Employees Provident Fund and Miscellaneous Provisions Act, 1952 on the said goodwill amount and consequentially quash and set aside the order No.AP/VP/CC-53/AP/24996/7A/2004/4224 of the 1st respondent dated 05-03-2004 by issuing Writ of Certiorari.

Counsel for the Petitioner:MR.K.SRINIVASA RAO

Counsel for the Respondent : MR.R.N.REDDY FOR RVAK.

The Court made the following :

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ORDER:

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The petitioner questions the order No.AP/VP/CC-53/AP/24996/7A/2004/4224 dated 05-03-2004 passed by the first respondent under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. As officer was posted to preside over the Appellate Tribunal, the petitioner questioned the said order in this writ petition. This Court while admitting the writ petition granted an interim order dated 13-04-2004 directing the petitioner to pay 50% of the amount demanded in two monthly instalments within six weeks from that date. It is stated that the said interim order has been complied with.

When there is an appeal provision in the statute, it is just and proper for the petitioner to avail such remedy. Having regard to the facts and circumstances of the case, the writ petitioner is directed to approach the appellate authority within one month from the date of receipt of a copy of this order and till the appeal is disposed of, the interim order dated 13-04-2004 shall continue.

Accordingly, the writ petition is disposed of. No order as to costs.

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18-11-2004

To

1. The Assistant Provident Fund Commissioner O/o. Employees

Provident Fund Organisation VUDA Layout, NAD Post,

Visakhapatnam-9

2 The Visakhapatnam Dock Labour Board and Dock Workers Union

(HMS) Dharmashakthi Bhavan, Near Reading Room

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3 Two C.D. copies.

sj